

**Texas Department of Insurance, Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

**MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION****PART I: GENERAL INFORMATION**

Requestor's Name and Address:  STJOSEPH REGIONAL HEALTH CENTER PO BOX 3867 BRYAN TX 77805-3867	MFDR Tracking #:	M4-07-4742-01
Respondent Name and Box #:  Texas Mutual Insurance Co. Box #: 54		

**PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION**

**Requestor's Position Summary:** "Employer gave incorrect billing info"... "We billed on time, Employer forwarded"... "Employer gave no carrier info"... "We billed employer on time, no carrier info"... "Incorrect billing given."

**Principle Documentation:**

1. DWC 60 Package
2. Total Amount Sought - \$1,124.60
3. Hospital Bill
4. EOBs
5. Medical Records

**PART III: RESPONDENT'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION**

**Respondent's Position Summary:** No response received from insurance carrier

**Principle Documentation:** None

**PART IV: SUMMARY OF FINDINGS**

Date(s) of Service	Denial Code(s)	Disputed Service	Amount in Dispute	Amount Due
4/19/2006	CAC-29, 731, CAC-W4, 891	Emergency Room Visit	\$1,124.60	\$0.00
Total Due:				\$0.00

**PART V: REVIEW OF SUMMARY, METHODOLOGY AND EXPLANATION**

Texas Labor Code §413.011(a-d), titled *Reimbursement Policies and Guidelines*, and Division rule at 28 Texas Administrative Code §134.1, titled *Use of the Fee Guidelines*, effective May 16, 2002 set out the reimbursement guidelines.

1. For the services involved in this dispute, the respondent reduced or denied payment with reason code:
  - CAC-29 – "The time limit for filing has expired"
  - 731 – "134.801 & 133.20 provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date of service.  
For service on or after 9/1/05"
  - CAC-W4 – "No additional reimbursement allowed after review of appeal/reconsideration."
  - 891 – "The insurance company is reducing or denying payment after reconsideration."
2. This dispute relates to an outpatient emergency room visit provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 TAC §134.1, effective May 16, 2002, 27 TexReg 4047, which requires that "reimbursement for services not identified in an established fee guideline shall be reimbursed at fair and reasonable rates as described in the Texas Workers' Compensation Act, §413.011"...

3. Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.
4. Division rule at 28 TAC §134.801(b)(3), effective on November 3, 2005, 30 TexReg 7626, renewed through May 1, 2006, 31 TexReg 1539, applicable to dates of service on or after September 1, 2005, states that "A healthcare provider who elects to submit medical bills to an employer waives, for the duration of the election period, the rights to:"... "Commission-provided medical dispute resolution as provided by §413.031 of the Texas Labor Code." Review of the Table of Disputed Services and box 45 of the medical bill finds that the date of service is April 19, 2006. Review of box 84 of the hospital bill finds that the health care provider submitted the claims to the injured worker's employer for payment. Division rule at 28 TAC §133.20(j)(1)(C), effective May 2, 2006, 31 TexReg 354, states that "A healthcare provider who elects to submit medical bills to an employer waives, for the duration of the election period, the rights to:"... "medical dispute resolution as provided by Labor Code §413.031." Review of the letter from the injured worker's employer dated November 14, 2006 finds that the employer confirms receipt of the medical bill on May 5, 2006. The Division therefore concludes that the health care provider has waived the right to medical dispute resolution per 28 TAC §134.801(b)(3) and/or 28 TAC §133.20(j)(1)(C).
5. Division rule at 28 TAC §134.801(c)(2), effective on November 3, 2005, 30 TexReg 7626, renewed for a 60-day period through May 1, 2006, 31 TexReg 1539, applicable to dates of service on or after September 1, 2005, states that "A health care provider shall not submit a medical bill later than:"... "the 95<sup>th</sup> day after the date the services are provided, for services provided on or after September 1, 2005." Review of the submitted documentation finds that the requestor has not provided evidence to support that the health care provider submitted the medical bill to the insurance carrier before the 95<sup>th</sup> day after the services were provided. Billing notes submitted by the requestor dated 10/13/2006 indicate that "Original claim was probably mailed to Magnolia address and this is why the claim billed on 9/14/06 is past filing deadline." The Division concludes that the health care provider did not timely submit the medical bill to the insurance carrier sufficient to meet the requirements of 28 TAC §134.801(c)(2).
6. Division rule at 28 TAC §133.307(c)(2)(F)(iii), effective December 31, 2006, 31 TexReg 10314, and applicable to disputes filed on or after January 15, 2007 requires that the request shall include "a position statement of the disputed issue(s) that shall include"... "how the Labor Code, Division rules, and fee guidelines impact the disputed fee issues"... Review of the submitted documentation finds that the requestor has not discussed how the Labor Code, Division rules and fee guidelines impact the disputed fee issues. The Division concludes that the requestor has not completed the required sections of the request in the form and manner prescribed by the Division as required by Division rule at 28 TAC §133.307(c)(2)(F)(iii).
7. Division Rule at 28 TAC §133.307(c)(2)(G) , effective December 31, 2006, and applicable to disputes filed on or after January 15, 2007, 31 TexReg 10314, requires the requestor to provide "documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable"... The requestor has not stated explicitly what method should be used to determine a fair and reasonable rate of reimbursement. Review of the *Table of Disputed Services* finds that the amount that the amounts in dispute are the same as the amounts billed for each service. The requestor does not discuss or explain how payment of the requested amount would ensure the quality of medical care, achieve effective medical cost control, ensure that similar procedures provided in similar circumstances receive similar reimbursement, or otherwise satisfy the statutory requirements and Division rules. Nor did the requestor submit evidence, such as redacted EOBs showing typical carrier payments, nationally recognized published studies, Division medical dispute decisions, or documentation of values assigned for services involving similar work and resource commitments, to support that payment of the amount sought would be a fair and reasonable reimbursement. Additionally, the Division has determined that a reimbursement methodology based upon payment of the hospital's billed charges, or a percentage of billed charges, does not produce an acceptable payment amount. This methodology was considered and rejected by the Division in the *Acute Care Inpatient Hospital Fee Guideline* adoption preamble which states at 22 *Texas Register* 6276 (July 4, 1997) that "A discount from billed charges was another method of reimbursement which was considered. Again, this method was found unacceptable because it leaves the ultimate reimbursement in the control of the hospital, thus defeating the statutory objective of effective cost control and the statutory standard not to pay more than for similar treatment of an injured individual of an equivalent standard of living. It also provides no incentive to contain medical costs, would be administratively burdensome for the Commission and system participants, and would require additional Commission resources." Thorough review of the documentation submitted by the requestor finds that the requestor has not discussed, demonstrated or justified that payment in the amount of the provider's billed charges would be a fair and reasonable rate of reimbursement for the services in dispute. The request for reimbursement is not supported.

8. The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The Division concludes that the health care provider has waived the right to medical dispute resolution per 28 TAC §134.801(b)(3) and/or 28 TAC §133.20(j)(1)(C). Additionally, the health care provider failed to timely submit the medical bill to the insurance carrier as required under 28 TAC §134.801(c)(2). The Division further concludes that this dispute was not filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code §133.307(c)(2)(F)(iii) and §133.307(c)(2)(G). Lastly, the Division concludes that the requestor failed to meet its burden of proof to support its position that reimbursement is due. As a result, the amount ordered is \$0.00.

#### **PART VI: GENERAL PAYMENT POLICIES/REFERENCES**

Texas Labor Code § 413.011(a-d), § 413.031 and § 413.0311  
28 Texas Administrative Code §133.20, §133.307, §134.1, §134.801  
Texas Government Code, Chapter 2001, Subchapter G

#### **PART VII: DIVISION DECISION AND/OR ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the Requestor is not entitled to reimbursement for the services involved in this dispute.

#### **DECISION:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
Date

#### **VIII: YOUR RIGHT TO REQUEST AN APPEAL**

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division Rule 148.3(c).

Under Texas Labor Code Section 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code Section 413.031.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**